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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/765,106
Filing Date: January 28, 2004
Appellant(s): FERRIS, RICHARD D.

MAILED
AUG 31 2006
GROUP 3700

Mr. John L. Welsh
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3 July 2006 appealing from the Office action mailed 11 January 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,723,001	FERRIS	4-2004
6,511,386	CACICEDO	1-2003
6,506,128	BLOOM	1-2003
5,152,533	RADAKOVICH	10-1992
5,058,891	TAKEUCHI	10-1991
5,779,559	EBERLE	7-1998
4,426,083	DISHNER	1-1984

The following is the prior art not relied on but cited as to develop what is known in the art by one skilled in the art at the time of the invention. The examiner used these findings to conclude the meaning of prior art references relied on to persons of ordinary skill in the art and the motivation those references would provide to such persons (In re Berg, 65 USPQ2d 2003 (Fed. Cir. 2003)).

The RandomHouse College Dictionary, Revised Edition, 1975, page 698
definition of intersect.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-15 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,723,001. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-5 of U.S. Patent No. 6,723,001 have the ratio of the width to the length and a club being a putter as the only differences. The ratio is the feature which made claims 1-5 of U.S. Patent No. 6,723,001 allowable. As such it would be obvious to remove this element of structure since all ovals with have a ratio of width to length and now the claims do not require it. Claims 1-2 of this application

contain all the elements of structure which where claimed in claims 1, and 4-5 of patent 6,723,001.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cacicedo in view of Bloom, Radakovich and Takeuchi.

Cacicedo discloses a hand grip having an oval shape with a front edge having a larger radius than a rear edge (Fig. 10), an upper edge and a lower edge (Fig. 17), an oval cross section shape along substantially the entire handle between an upper and lower edge (Fig. 17), and a grip cap having no vent hole (Fig. 13) in order to establish a stiffness and feel to a hand grip (Abstract).

Cacicedo lacks a putter, an oval cross section shape along the entire handle between an upper and lower edge, a length dimension being perpendicular to a first plane of a ball striking face, alignment indicia on an upper edge with a first alignment line in a direction perpendicular to a first plane of a ball striking face, a second alignment line being perpendicular to a first alignment line, parallel to a ball striking face

and a first alignment line and second alignment line intersecting to form four angles and a cross.

Bloom discloses a putter (Fig. 4), an elongated axis of an oval, cross-sectional shape having a length being perpendicular to the plane of the ball striking face (Abstract), and an oval cross section shape along the entire handle between an upper and lower edge in order to have an ergonomic gripping surface that promotes a preferred palm and promotes proper hand and body placement (Abstract). In view of the patent of Bloom it would have been obvious to modify the club of Cacicudo to include a putter in order to utilize the advantages of establishing a stiffness and feel to a handgrip for a putter. In addition, in view of the patent of Bloom it would have been obvious to modify the club of Cacicudo to have an elongated axis of an oval along the entire handle between an upper and lower edge, cross-sectional shape having a length being perpendicular to the plane of the ball striking face in order to promote a preferred palm and promotes proper hand and body placement along the handle and in order to have the same feel along the entire length of a grip.

Radakovich discloses a sighting device placed on a flat surface of a grip end (Figs. 4-5) having a length dimension being perpendicular to a first plane of a ball striking face, an alignment device on an upper edge with a first alignment line (Ref. Nos. 92, 46, Fig. 5) in a direction perpendicular to a first plane of a ball striking face, a second alignment line (Ref. No. 94 in figure 4 and the boundary line for figure 5) being perpendicular to a first alignment line, parallel to a ball striking face (Fig. 5, Col. 5, Lns. 26-39), indicia on flat surface in the form of indicia on a sticker which is placed on a butt

end of a grip, a design of an arrow may be varied (Fig. 5, Col. 5, Lns. 27-33) in order to improve accuracy (Col. 1, Lns. 7-10) by improving alignment and control of a face (Col. 1, Lns. 35-37), and a grip able to be used with a putter. Takeuchi discloses alignment lines for grip positioning on a shaft being on a flat surface of a grip and being indicia (Fig. 5, Col. 4, Lns. 11-16) filling up the entire length and width of a grip top flat surface except the center (Fig. 5). In view of the patent of Radakovich it would have been obvious to modify the putter of Cacicedo to have a sighting device placed on a flat surface of a grip end having a length dimension being perpendicular to a first plane of a ball striking face, an alignment device on an upper edge with a first alignment line in a direction perpendicular to a first plane of a ball striking face, a second alignment line being perpendicular to a first alignment line, parallel to a ball striking face and intersecting a first alignment line in order to assist a golfer in improving accuracy by improving alignment and control of a face of a club. In view of the patent of Radakovich and Takeuchi it would have been obvious to modify the putter of Cacicedo to have the alignment lines being indicia and taking up the entire length, width and center of a grip top flat surface and a first alignment line and second alignment line intersecting to form four angles and a cross in order to minimize the number of parts needed for a grip by having indicia and in order to be more visually visible for a golfer by using the entire surface for the alignment indicia. As such for an oval shaped grip a first alignment line will be longer than a second alignment line.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cacicedo in view of Bloom, Radakovich and Takeuchi as applied to claims 1-2 and 4-5 above, and further in view of Eberle or Dishner.

Cacicedo lacks a handle extending at least half of the overall length of the club from the head to the upper end of a shaft. Eberle discloses an elongated handle having a generally oval, cross-sectional shape including rounded front and rear edges (Fig. 3), an elongated axis of an oval, cross-sectional shape being perpendicular to the plane of the ball striking face (Col. 3, Lns. 55-57), and a handle having a length approximately half the overall length of the golf club (Fig. 1) in order to have a pendulum type putter (Col. 1, Lns. 7-32). Dishner discloses an elongated handle having a generally oval, cross-sectional shape including rounded front and rear edges (Fig. 3), and a handle having a length approximately half the overall length of the golf club (Figs. 5-6) in order to have a length adaptable to a wide variance of personal stances and physiognomy (Col. 4, Lns. 13-14). In view of the patents of Eberle or Dishner it would have been obvious to modify the putter of Cacicedo to have a handle extending at least half of the overall length of the club from the head to the upper end of a shaft in order to be able to modify the stiffness and feel for a handle of a pendulum type putter and to have a length adaptable to a wide variance of personal stances and physiognomy.

6. Claims 6-7, and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloom in view of Radakovich and Takeuchi.

Bloom discloses a putter (Fig. 4), an elongated axis of an oval, cross-sectional shape having a length being perpendicular to the plane of the ball striking face (Abstract), and an oval cross section shape along the entire handle between an upper and lower edge in order to have an ergonomic gripping surface that promotes a preferred palm and promotes proper hand and body placement (Abstract).

Boom lacks an alignment indicia on an upper edge with a first alignment line in a direction perpendicular to a first plane of a ball striking face, a second alignment line being perpendicular to a first alignment line, parallel to a ball striking face and intersecting a first alignment line.

Radakovich discloses a sighting device placed on a flat surface of a grip end (Figs. 4-5) having a length dimension being perpendicular to a first plane of a ball striking face, an alignment device on an upper edge with a first alignment line (Ref. Nos. 92, 46, Fig. 5) in a direction perpendicular to a first plane of a ball striking face, a second alignment line (Ref. No. 94 in figure 4 and the boundary line for figure 5) being perpendicular to a first alignment line, parallel to a ball striking face (Fig. 5, Col. 5, Lns. 26-39), indicia on flat surface in the form of indicia on a sticker which is placed on a butt end of a grip, a design of an arrow may be varied (Fig. 5, Col. 5, Lns. 27-33) in order to improve accuracy (Col. 1, Lns. 7-10) by improving alignment and control of a face (Col. 1, Lns. 35-37), and a grip able to be used with a putter. Takeuchi discloses alignment lines for grip positioning on a shaft being on a flat surface of a grip and being indicia (Fig. 5, Col. 4, Lns. 11-16) filling up the entire length and width of a grip top flat surface except the center (Fig. 5). In view of the patent of Radakovich it would have been

obvious to modify the putter of Bloom to have a sighting device placed on a flat surface of a grip end having a length dimension being perpendicular to a first plane of a ball striking face, an alignment device on an upper edge with a first alignment line in a direction perpendicular to a first plane of a ball striking face, a second alignment line being perpendicular to a first alignment line, parallel to a ball striking face and intersecting a first alignment line in order to assist a golfer in improving accuracy by improving alignment and control of a face of a club. In view of the patent of Radakovich and Takeuchi it would have been obvious to modify the putter of Bloom to have the alignment lines being indicia and taking up the entire length, width and center of a grip top flat surface and a first alignment line and second alignment line intersecting to form four angles and a cross in order to minimize the number of parts needed for a grip by having indicia and in order to be more visually visible for a golfer by using the entire surface for the alignment indicia. As such for an oval shaped grip a first alignment line will be longer than a second alignment line.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boom in view of Radakovich and Takeuchi as applied to claims 6-7, and 9-10 above, and further in view of Eberle or Dishner.

Boom lacks a handle extending at least half of the overall length of the club from the head to the upper end of a shaft. Eberle discloses an elongated handle having a generally oval, cross-sectional shape including rounded front and rear edges (Fig. 3), an elongated axis of an oval, cross-sectional shape being perpendicular to the plane of the

ball striking face (Col. 3, Lns. 55-57), and a handle having a length approximately half the overall length of the golf club (Fig. 1) in order to have a pendulum type putter (Col. 1, Lns. 7-32). Dishner discloses an elongated handle having a generally oval, cross-sectional shape including rounded front and rear edges (Fig. 3), and a handle having a length approximately half the overall length of the golf club (Figs. 5-6) in order to have a length adaptable to a wide variance of personal stances and physiognomy (Col. 4, Lns. 13-14). In view of the patents of Eberle or Dishner it would have been obvious to modify the putter of Boom to have a handle extending at least half of the overall length of the club from the head to the upper end of a shaft in order to have a length adaptable to a wide variance of personal stances and physiognomy.

8. Claims 11-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radakovich in view of Takeuchi.

Radakovich discloses a sighting device placed on a flat surface of a grip end (Figs. 4-5) having a length dimension being perpendicular to a first plane of a ball striking face, an alignment device on an upper edge with a first alignment line (Ref. Nos. 92, 46, Fig. 5) in a direction perpendicular to a first plane of a ball striking face, a second alignment line (Ref. No. 94 in figure 4 and the boundary line for figure 5) being perpendicular to a first alignment line, parallel to a ball striking face (Fig. 5, Col. 5, Lns. 26-39), indicia on flat surface in the form of indicia on a sticker which is placed on a butt end of a grip, a design of an arrow may be varied (Fig. 5, Col. 5, Lns. 27-33) in order to

improve accuracy (Col. 1, Lns. 7-10) by improving alignment and control of a face (Col. 1, Lns. 35-37), and a grip able to be used with a putter.

Radakovich lacks a first alignment line and second alignment line intersecting to form four angles and a cross.

Takeuchi discloses alignment lines for grip positioning on a shaft being on a flat surface of a grip and being indicia (Fig. 5, Col. 4, Lns. 11-16) filling up the entire length and width of a grip top flat surface except the center (Fig. 5). In view of the patent of Takeuchi it would have been obvious to modify the club of Radakovich to have the alignment lines being on both sides of the end of a grip with indicia taking up the entire length, width and center of a grip top flat surface forming a cross and four angles in order for the alignment lines to be more visually visible for a golfer by using the entire surface for the alignment indicia.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Radakovich in view of Takeuchi as applied to claims 11-12 and 15 above, and further in view of Eberle or Dishner.

Radakovich lacks a handle extending at least half of the overall length of the club from the head to the upper end of a shaft. Eberle discloses a handle having a length approximately half the overall length of the golf club (Fig. 1) in order to have a pendulum type putter (Col. 1, Lns. 7-32). Dishner discloses a handle having a length approximately half the overall length of the golf club (Figs. 5-6) in order to have a length adaptable to a wide variance of personal stances and physiognomy (Col. 4, Lns. 13-14).

In view of the patents of Eberle or Dishner it would have been obvious to modify the club of Radakovich to have a handle extending at least half of the overall length of the club from the head to the upper end of a shaft in order to have a length adaptable to a wide variance of personal stances and physiognomy.

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Radakovich in view of Takeuchi as applied to claims 11-12 and 15 above, and further in view of Boom.

Radakovich lacks a first alignment line being longer than a second alignment line.

Bloom discloses a putter (Fig. 4) with a cross section of a grip being oval with a major axis perpendicular to the face of head in order to have an ergonomic gripping surface that promotes a preferred palm and promotes proper hand and body placement (Abstract). In view of the patent of Bloom it would have been obvious to modify the putter of Radakovich to have a grip being an oval with a major axis perpendicular to the face of a head with the first alignment line along the major axis and the second alignment line along the minor axis in order to have a grip to having an ergonomic gripping surface that promotes a preferred palm and promotes proper hand and body placement as well as alignment features a golfer is able to use when hitting a ball.

(10) Response to Argument

In the arguments filed 3 July 2006, the appellant argues:

1. It is improper to use the reference of Radakovich in view of Takeuchi due to both Radakovich and Takeuchi having different purposes than the applicant's alignment system.
2. It is improper to use the reference of Radakovich due to the first alignment line 48 is not perpendicular to the unidentified boundary nor is it perpendicular to the arrow 46.
3. It is improper to use the reference of Radakovich due to Radakovich not disclosing the boundary line being parallel to the ball striking face and the examiner merely assumed it to be true.
4. It is improper to use the reference of Radakovich due to at best Radakovich disclosing a sighting device with meeting lines 92 and 94 but not intersecting to form four angles.
5. It is improper to use the reference of Radakovich due to the "T" formed in Radakovich is to assist the golfer in sighting down the fairway as the golfer is establishing a position.

6. It is improper to use the reference of Radakovich in view of Takeuchi due to neither reference teaches intersecting lines.
7. It is improper to use the reference of Radakovich in view of Takeuchi with the motivation of filling up the entire length and width with indicia since this is not what the Appellant has claimed.
8. It is improper to use the reference of Radakovich in view of Takeuchi since using the logic of having alignment lines on both halves fails to address intersecting lines forming four angles.
9. It is improper to use the reference of Radakovich in view of Takeuchi since Radakovich already fills up the entire length, width and center with indicia as Takeuchi does.
10. It is improper to use the reference of Takeuchi since Takeuchi does not have intersecting lines nor a desire to have intersecting lines.
11. It is improper to use the reference of Takeuchi since having intersecting lines on Takeuchi would destroy the function of Takeuchi which is to have gradation lines.

12. It is improper to use the reference of Radakovich since converting the sighting member into indicia lines statically affixed to the butt end would render the device inoperative as the user would no longer be able to adjust the device of sighting at a desired loft which is not the same for every shot.

13. It is improper to use the reference of Radakovich since Radakovich is only concerned with sighting down the fairway in a forward direction and as such uses a "T" sighting with the rear portion blackened out. Add a cross on Radakovich would cause the golfer to look rearward which would hinder the purpose of the sighting device of Radakovich.

14. It is improper to use the double patenting rejection over patent number 6,723,001 due to all the pending claims include the alignment system limitations and it is patentably distinct over the shaped claimed in patent number 6,723,001.

15. With respect to item 1, the argument that it is improper to use the reference of Radakovich in view of Takeuchi due to both Radakovich and Takeuchi having different purposes which are not the same purpose as the applicant's alignment system is disagreed with. It is agreed that the aligning devices of Radakovich and Takeuchi are not for the exact same purpose. However nothing requires different references to have the exact same purposes before combining teachings and clearly this is totally independent of why the Appellant chooses a design. What is required is if it would be

obvious to ones skilled in the art at the time of the invention to combine teachings of the references. Takeuchi and Radakovich are common in that both have alignment devices at a butt end of a grip which a person is looking at in order to perform a function.

Radakovich's function is to align a grip which is attached to a club so there is precise alignment of a head to a ball (Col. 1, Lns. 5-10). Takeuchi's function is to fit a grip to a club to allow easy adjustments to correct angle of putting/face (Abstract, Col. 2, Lns. 30-40, Col. 3, Lns. 10-15). In addition, Takeuchi discloses the alignment device being related to the face angle with one embodiment where the face angle is square there are forward and rear alignment lines which would make sense to be aligned with the target line ((Figs. 6-7), When the face is aligned with the alternating long and short dash lines). Clearly Takeuchi in figures 6-7 wants to show a visual picture between the alignment device and the face angle which Radakovich does as well. The examiner believes there is enough commonality between the purposes of the references of Radakovich and Takeuchi to combine teachings.

16. With respect to item 2, the argument that it is improper to use the reference of Radakovich due to the first alignment line 48 being not perpendicular to the unidentified boundary nor is it perpendicular to the arrow 46 is disagreed with. The examiner did error in listing reference number 48 and does agree it is not perpendicular to either the boundary line or to arrow 46. The examiner meant to list reference number 46 which can be seen by including reference numbers 48 and 92 together in the final office action rejection in paragraphs 4, 6 and 8. Clearly alignment line 46 is perpendicular to the

boundary line due to the boundary line (Fig. 5) and alignment line (94, Fig. 4) being a cross bar serving a purpose as squaring line (59) (Col. 5, Lns. 34-39) and the sighting line (46,92) will be aligned to the designated target (Col. 2, Lns. 15-18). The examiner did not change the incorrect reference number 48 to the correct reference number 46 in paragraphs 4,6 and 8 of the rejection above which was in the final office action.

17. With respect to item 3, the argument that it is improper to use the reference of Radakovich due to Radakovich not disclosing the boundary line being parallel to the ball striking face and the examiner merely assumed it to be true is disagreed with. Clearly alignment line 46 is perpendicular to the boundary line due to the boundary line (Fig. 5) and alignment line (94, Fig. 4) being a cross bar serving a purpose as squaring line (59) (Col. 5, Lns. 34-39). The description of figure 2 which is similar to figure 11 shows/describes same squaring line on the wing (42) being parallel to the face (Fig. 2, Col. 3, Lns. 5-27). Also squaring line 59 is for squaring the face to the ball (Col. 4, Lns. 9-11). And finally an objective of Radakovich is to ensure the club face is aimed square or 90 degrees to the target (Col. 1, Lns. 45-50). This would lead one to believe the boundary line is parallel to the face when hitting a straight and square shot.

18. With respect to item 4, the argument that it is improper to use the reference of Radakovich due to at best Radakovich disclosing a sighting device with meeting lines 92 and 94 but not intersecting to form four angles is disagreed with. The examiner agrees that Radakovich does not disclose four corners but clearly Radakovich discloses

intersecting lines. One of the definitions of intersect is to have one or more points in common (The Random House College Dictionary Revised Edition 1975, page 698).

Radakovich's alignment lines meet this definition of intersection in a "T" shaped intersection. Radakovich was not used to show four corners but believed it would be obvious after adding the teaching of Takeuchi of having alignment lines on both sides of the center of the butt end of a grip.

19. With respect to item 5, the argument that it is improper to use the reference of Radakovich due to the "T" formed in Radakovich is to assist the golfer in sighting down the fairway as the golfer is establishing a position is disagreed with. Clearly there is more than one way to have an alignment device. Radakovich himself discloses about 5 different ways himself (Figs. 2-6) with some on the butt end and some being forward of the butt end. Takeuchi was used to show that it is known to have a visual sighting device for establishing a position to hit a ball down the fairway where there is alignment lines on the forward and back part of the butt end of a grip (Figs. 6-7).

20. With respect to item 6, the argument that it is improper to use the reference of Radakovich in view of Takeuchi due to neither reference teaches intersecting lines is disagreed with. See paragraph 17 above.

21. With respect to item 7, the argument that it is improper to use the reference of Radakovich in view of Takeuchi with the motivation of filling up the entire length and

width with indicia since this is not what the Appellant has claimed is disagreed with.

The examiner believes that combining the alignment device of Radakovich which shows a forward alignment line which intersects with a squaring line with the alignment device of Takeuchi which shows alignment lines forward and aft would produce forward and aft alignment lines intersecting a squaring line. This would produce an intersection with four angles. The motivation produced the combination of the teachings of Radakovich and Takeuchi which produced the claimed structure of the Appellant.

22. With respect to item 8, the argument that it is improper to use the reference of Radakovich in view of Takeuchi since using the logic of having alignment lines on both halves fails to address intersecting lines forming four angles is disagreed with. See paragraphs 20 above.

23. With respect to item 9, the argument that it is improper to use the reference of Radakovich in view of Takeuchi since Radakovich already fills up the entire length, width and center with indicia as Takeuchi does is disagreed with. As Radakovich discloses different ways to fill up the entire length, width and center with indicia (Figs. 3, 5-6) so does Takeuchi. The examiner believes combining the teachings of how to fill up the entire length, width, and center of Radakovich and Takeuchi would make it obvious to have forward and rear alignment lines which intersect a squaring line forming four angles.

24. With respect to item 10, the argument that it is improper to use the reference of Takeuchi since Takeuchi does not have intersecting lines nor a desire to have intersecting lines is disagreed with. Takeuchi was not used to show intersecting lines but Radakovich was (Figures 4-5). Takeuchi was used to show alignment lines on both sides of a center of a grip which is used for visual alignment purposes (Figs. 6-7).

25. With respect to item 11, the argument that it is improper to use the reference of Takeuchi since having intersecting lines on Takeuchi would destroy the function of Takeuchi which is to have gradation lines is disagreed with. The examiner is not trying to modify the aligning device of Takeuchi in view of Radakovich but is trying to modify the alignment device of Radakovich in view of Takeuchi.

26. With respect to item 12, the argument that it is improper to use the reference of Radakovich since converting the sighting member into indicia lines statically affixed to the butt end would render the device inoperative as the user would no longer be able to adjust the device of sighting at a desired loft which is not the same for every shot is disagreed with. First it is uncertain what is meant by adjusting the device for a desired loft which is not the same for every shot. The examiner did not find this discussion of adjusting the device for different lofts and shots. None-the-less, clearly placing a sticker on a butt end of a club is statically affixing the alignment device to a butt end (Col. 5, Lns. 32-33). Plus if the first alignment line is aligned to be perpendicular to a face some golfers would want it to be a permanent alignment device since golfer's mostly attempt

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to hit a ball square when playing a round of golf (Col. 5, Lns. 34-39, Col. 3, Lns. 5-27, Fig. 2) and are not concerned with more difficult shot making. This is why a great majority of head alignment devices only are aligned for square hits.

27. With respect to item 13, the arguments that it is improper to use the reference of Radakovich since Radakovich is only concerned with sighting down the fairway in a forward direction and as such uses a "T" sighting with the rear portion blackened out and adding a cross on Radakovich would cause the golfer to look rearward which would hinder the purpose of the sighting device of Radakovich are disagreed with. Having alignment lines on both sides of the center as shown in figures 6-7 of Takeuchi both in the toe and heel directions and the forward (towards the target) and aft (away from the target) directions did not stop Takeuchi from providing a visual presentation of showing grip alignment lines with the alignment of the face during the positioning a club at address for hitting a ball. The examiner believe a longer forward to aft line would only further assist the golfer in seeing the alignment line better and better help the golfer in positioning the club. The butt end of a club is a very small area to see by a golfer in a hitting stance.

28. With respect to item 14, the arguments that it is improper to use the double patenting rejection over patent number 6,723,001 due to all the pending claims include the alignment system limitations and it is patentably distinct over the shaped claimed in patent number 6,723,001 is disagreed with. Claim 5 of patent number 6,723,001 claims

an alignment system for cross hairs with a first line bisecting the forward and rearward edges with a second line perpendicular to the first line. Clearly this implies four angles. Appellant's claim 1 clearly has the same alignment system though explained differently as the alignment system explained in claims 1 and 4-5 combined.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



STEPHEN BLAU
PRIMARY EXAMINER

Conferees:

Eugene Kim (Supervisory Primary Examiner Art Unit 3711)


Nini Legesse (Primary Examiner)



NINI F. LEGESSE
PRIMARY EXAMINER